



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SYLVESTER TWINE,

Plaintiff,

v.

FOUR UNKNOWN NEW YORK
POLICE OFFICERS,

Defendants.
-----X

10 Civ. 6622 (DAB) (JLC)
ADOPTION OF REPORT
AND RECOMMENDATION

DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the December 12, 2012 Report and Recommendation of United States Magistrate Judge James L. Cott (the "Report"). Judge Cott's Report recommends that Defendants' Motion to Dismiss be GRANTED as to Plaintiff's false arrest claim and DENIED as to Plaintiff's malicious prosecution claim. (Report at 1.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The District Court may adopt those portions of the Report to which no timely Objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report

operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (internal quotation marks omitted). This rule applies to pro se parties so long as the Magistrate Judge's Report "explicitly states that failure to object to the report within [fourteen] days will preclude appellate review and specifically cites 28 U.S.C. § 636(b)(1) and rules 72, 6(a) and 6(e) of the Federal Rules of Civil Procedure." Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989) (per curiam).

Despite being advised of the procedure for filing Objections in Judge Cott's Report and warned that failure to file Objections would waive objections and preclude appellate review (Report at 35), no Party has filed Objections to the Report.

Having reviewed the Report and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED and ADJUDGED that the Report and Recommendation of United States Magistrate Judge James L. Cott, dated December 12, 2012, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. Defendants' Motion to Dismiss is hereby (1) GRANTED as to Plaintiff's false arrest claim, and (2) DENIED as to Plaintiff's malicious prosecution

claim. Defendants shall Answer the Amended Complaint within 21 days of the date of this Order.

SO ORDERED.

Dated: January 25, 2013
New York, New York

Deborah A. Batts
Deborah A. Batts
United States District Judge